



**FACTS**

4. Denied.

5. BONYM admits that on February 9, 2006, Mingfeng Zhu and Tsan Hung Timothy So executed a promissory note ("Note") and deed of trust ("Deed of Trust") related to property located at 1958 Augusta Drive, Houston, Texas 77057 (the "Property"), and that the Note and Deed of Trust were later assigned to BONYM.

6. BONYM is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 6, and therefore deny the same.

7. Denied.

8. Denied.

9. Denied.

**REMEDIES**

10. BONYM denies that Plaintiff is entitled to the requested relief or to any relief whatsoever.

11. BONYM is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 11 concerning Plaintiff's agreements with any attorneys, and therefore denies the same. However, BONYM denies that Plaintiff is entitled to the requested relief or to any relief whatsoever.

**APPLICATION FOR TEMPORARY RESTRAINING ORDER AND APPLICATION  
FOR TEMPORARY INJUNCTION**

12. BONYM denies that Plaintiff is entitled to the requested relief or to any relief whatsoever.

13. Upon information and belief, BONYM admits that the Property is worth approximately \$151,000.00. BONYM denies the remaining allegations contained in Paragraph 13, and denies that Plaintiff is entitled to the requested relief or to any relief whatsoever.

14. BONYM denies the allegations contained in Paragraph 14, and denies that Plaintiff is entitled to the requested relief or to any relief whatsoever.

15. BONYM denies that Plaintiff is entitled to the requested relief or to any relief whatsoever.

In response to the prayer for relief set forth below Paragraph 15 and commencing with "WHEREFORE," BONYM denies that Plaintiff is entitled to the requested relief or to any relief whatsoever.

#### **AFFIRMATIVE DEFENSES**

1. Some of Plaintiff's claims are barred because it lacks standing.
2. Some of Plaintiff's claims fail to state a claim upon which relief can be granted.
3. Plaintiff's claims are barred by the terms and conditions of the Note and Deed of Trust.
4. Plaintiff's claims are barred by its failure to do equity and by the doctrine of unclean hands.
5. Plaintiff has failed to mitigate its claimed damages.
6. BONYM pleads the defenses of laches, acquiescence, ratification, statute of frauds, statute of limitations, res judicata, release, waiver, accord and satisfaction, payment, license, judicial estoppel, and collateral estoppel.

Respectfully submitted,

**/s/ Graham Gerhardt**

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**CERTIFICATE OF SERVICE**

I hereby certify that on May 24, 2012, I served a copy of the foregoing via the Court's electronic filing system and by first-class U.S. Mail to the following:

Jerry L. Schutza  
11 Greenway Plaza, Suite 2820  
Houston, Texas 77046

**/s/ Graham Gerhardt**

OF COUNSEL